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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,555	10/24/2003	Jerome S. Veith	659-1148	3611
757	7590	05/24/2006		
BRINKS HOFER GILSON & LIONE P.O. BOX 10395 CHICAGO, IL 60610			EXAMINER HAND, MELANIE JO	
			ART UNIT	PAPER NUMBER
			3761	

DATE MAILED: 05/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/693,555	Applicant(s) VEITH, JEROME S.	
	Examiner Melanie J. Hand	Art Unit 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 - Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 - Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some * c) ☐ None of:
 - 1. ☐ Certified copies of the priority documents have been received.
 - 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

The status identifier of Claim 20 is listed as "original" however Claim 20 contains amended claim language, therefore its status must be corrected to reflect said amendment. Appropriate correction is required.

Response to Arguments

Applicant's arguments with respect to claims 1-23 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Lantz et al (U.S. Patent No. 5,836,930).

With respect to **Claims 1-3, 17, 18**: Lantz teaches diaper 10 with front waist portion 12 and rear waist portion 14 defining a length 90 therebetween. (Fig. 1) Lantz teaches absorbent structure 32 with retention portion 48 that is comprised of superabsorbent material. (Col. 13, lines 58-60). Absorbent structure 32 is an insert with longitudinally opposed edges defining length 94. Structure 32 is comprised of a plurality of operatively joined coextensive layers (Col. 10, lines 18-23, 26-30), thus having a uniform thickness in the longitudinal direction. Structure 32 has

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length 94. Lantz teaches that length 94 of structure 32 is no less than 40% of length 90. (Col. 11, lines 10-15). Lantz teaches that at least 55% of length 94 of absorbent structure 32 is located in a front half section of diaper 10. (Col. 4, lines 13-16) Lantz teaches that retention portion 48 defines the boundaries of absorbent structure 32 therefore Examiner is concluding that there is no absorbent material present outside of said retention portion or said absorbent structure.

With respect to **Claims 4,13,19**: Lantz teaches a SAP particle to hydrophilic fiber ratio for retention portion 48 of not less than about 25:75 by weight. (Col. 14, lines 28-32)

With respect to **Claim 5**: Lantz teaches a liquid uptake of 25-40 g/g after 60 minutes under load. (Col. 14, lines 1-6) Lantz teaches a load of 0.3 psi, or 2.06 kPa, by incorporating an absorbency-under-load (AUL) determination method taught in EP 339,461 A1, published November 2,1998, which is roughly equivalent to the pressure exerted on a sample that is subjected to the centrifuge method set forth by applicant, therefore the results taught by Lantz are concluded herein to be relevant.

With respect to **Claim 6**: Lantz teaches that surge management layer 46 adjacent absorbent structure 32, said surge management layer 46 has a density of absorbent material that is not greater than 0.1 g/cc. Examiner is concluding that, given a surge layer's function (i.e. absorb and transfer but prevent excess exudates from reaching structure 32) and position (adjacent structure 32), the density of absorbent material in retention portion 48 must be at least 0.1 g/cc.

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With respect to **Claims 7,20**: Lantz teaches that waist portions 12 and 14 are comprised of material from outer cover 30 which also provides a front panel and back panel, as well as crotch region 16 comprised of edges longitudinally spaced from both waist portions. (Fig. 9). Absorbent structure 32 is disposed longitudinally between said front and rear panels and, as can best be seen from Fig. 7, has ends 60 spaced longitudinally from one another (Col. 10, line 41) and since absorbent structure 32 is adjacent backsheet 30 which forms said panels, absorbent structure 32 overlies and is connected to both the front and rear panels since it is located in the crotch region 16 and does not entirely lie on one side of the diaper's transverse centerline.

With respect to **Claims 8,14,21**: Lantz teaches that the backsheet 30 is comprised of a nonwoven material. (Col. 6, lines 28-30, 49-51)

With respect to **Claims 9,15,22**: Lantz teaches a flexible liquid impermeable material for backsheet 30. (Col. 6, lines 27-32)

With respect to **Claims 10,16**: Lantz teaches tape tabs 36 configured for securing front and rear waistband portions 12 and 14 about the wearer. (Col. 4, lines 17-19)

With respect to **Claims 11,12**: Please see the rejections of Claims 1 and 7 in addition to the following: Lantz teaches that absorbent structure 32 has end edges 60. (Col. 10, line 41) As can clearly be seen in Fig. 9, end edges 60 are longitudinally spaced from both the end waist edges of diaper 10 and the terminal edges of crotch region 16.

With respect to **Claim 23**: Lantz teaches securing front and rear waistband portions 12 and 14 about the wearer by using tape tabs 36. (Col. 4, lines 17-19)

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie J. Hand whose telephone number is 571-272-6464. The examiner can normally be reached on Mon-Thurs 8:00-5:30, alternate Fridays 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Melanie J Hand
Examiner
Art Unit 3761

MJH

DEPT. OF COMMERCE
SUPERVISORY PRIMARY EXAMINER

